STATE OF NEW YORK

1262--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. McDONALD, STECK, MORINELLO, LUPARDO, FAHY, SANTABARBARA, SEAWRIGHT -- Multi-Sponsored by -- M. of A. BLANKENBUSH, BRABENEC, HYNDMAN -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to collaborative prescriptive authority for psychologists

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 7601-b to read as follows:

§ 7601-b. Collaborative prescriptive authority for psychologists. 1. As used in this section, the following terms shall have the following meanings:

a. "Prescribing psychologist" means any psychologist licensed pursuant to this article who has undergone specialized education and training in preparation for prescriptive practice and who has passed an examination accepted by the department relevant to establishing competence for prescribing, and who has received from the department a certificate of prescriptive authority, which has not been revoked or suspended.

b. "Prescriptive authority" means the authority to prescribe, administer, discontinue and/or distribute without charge, drugs or controlled substances recognized in or customarily used in the diagnosis, treatment and management of individuals with psychiatric, mental, cognitive, nervous, emotional or behavioral disorders, or other procedures directly related thereto within the scope of practice of psychology in accordance with rules and regulations adopted by the department. Prescriptive authority includes ordering and obtaining necessary laboratory tests, procedures, and diagnostic examinations.

c. "Controlled substance" means any drug substance or immediate precursor enumerated in schedules 1-5 of the United States Drug Enforce-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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ment Administration Controlled Substance Act and as provided for in article thirty-three of the public health law.

d. "Conditional prescribing certification" means a two-year clinical prescribing fellowship period to obtain clinical experience sufficient to attain competency in the psychopharmacological treatment of a diverse patient population utilizing a collaborative relationship with a collaborating clinician and shall include no less than four hundred hours of clinical training seeing at least one hundred individual patients during such time period.

e. "Prescription" is an order for a drug, laboratory test, or any medicine, device or treatment, including controlled substances, such terms as defined in article one hundred thirty-seven of this title.

f. "Psychotropic medication" means drugs or controlled substances that are recognized as customarily used in the diagnosis, treatment, and management of individuals with psychiatric, mental, cognitive, nervous, substance use disorders, emotional or behavioral disorders. Under this section, psychotropic medication does not include narcotics.

g. "Collaborating clinician" means a licensed physician, osteopathic physician, nurse practitioner, psychiatric nurse practitioner or clinical nurse specialist engaged in a collaborative agreement with a psychologist in the prescribing of psychotropic medication.

2. a. A psychologist licensed under this article may apply to the department for conditional prescribing certification if the psychologist meets the following requirements:

(1) A current license to practice psychology at the doctoral level in this state;

(2) A master's degree in clinical psychopharmacology awarded by a program in a regionally accredited institution of higher education approved by the United States Department of Education as further described in paragraph b of this subdivision;

(3) Successful completion of clinical practicum training in physical assessment and pathophysiology of no less than eighty hours by a health care provider licensed to conduct independent physical assessments;

(4) A passing score on an examination developed by a nationally recognized body, and approved by the department;

(5) Possesses malpractice insurance that will cover the applicant during the period the conditional prescribing certificate is in effect; and

(6) Meets all other requirements, as determined by rules adopted by the department.

b. The necessary prerequisites for the education program shall be determined by the institution that offers such masters level degrees and, in the institution's judgment, shall include sufficient biomedical education to ensure the necessary knowledge and skills to prescribe psychotropic medications in a safe and effective manner. The program shall satisfy the designation requirements of the American Psychological Association for clinical psychopharmacology education and training programs. The program must be established and administered by biomedically trained educators and must demonstrate that all content is covered and that students achieve clinical competency in all areas, and shall include at a minimum:

(1) Science prerequisites, including human anatomy and human physiology, and a course in biology;

(2) Basic science, including human anatomy, human physiology, biochemistry, and genetics;

(3) Functional neuroscience, including neuroanatomy, neurophysiology, and neurochemistry;

(4) Physical examinations, including the measurement and interpretation of vital signs and neurological, cardiovascular, respiratory, abdominal, eye, ear, nose, throat, gastrointestinal, genitourinary, integumentary, allergic and immunologic, and musculoskeletal examinations;

(5) Interpretation of laboratory tests, including therapeutic drug monitoring, blood and urine tests, radiology, electrocardiogram, brain electrophysiology, neuroimaging techniques, and applied genetics;

(6) Pathological basis of disease, including pathophysiology of common clinical cardiovascular, respiratory, gastrointestinal, hepatic, neurological, and endocrine conditions;

(7) Clinical medicine, including clinical manifestations, differential diagnosis, and laboratory or radiological evaluation of commonly encountered medical conditions, including patients with complex medical needs and comorbidities, and medical emergencies and their management;

(8) Clinical neurotherapeutics, including electrophysiology, electroconvulsive therapy and noninvasive interventions, including transcranial magnetic stimulation, neurofeedback, and biofeedback;

(9) Systems of care, including coordination of care with other medical specialties, consultations and referrals, and coordination and consultation in long-term care;

(10) Pharmacology, including pharmacokinetics and drug delivery systems, pharmacodynamics, neuropharmacology, toxicology, and mechanisms of medication interactions;

(11) Clinical pharmacology, including major drug classes and nutritional supplements;

(12) Psychopharmacology, including sedatives and hypnotics, antidepressants, antipsychotics, mood stabilizers, anxiolytics, stimulants, medications for drug dependence, medications for drug adverse effects, pediatric psychopharmacology, geriatric psychopharmacology, including medications for cognitive impairment and polypharmacy, issues of diversity and cultural competence in pharmacological practice, clinical decision making and standard practice guidelines, and guidelines for prescribing controlled substances;

(13) Psychopharmacology research, including phases of drug development, clinical trials in psychiatry, and critical evaluation of evidence; and

(14) Professional, ethical, and legal issues, including conflicts of interest and relationships with the industry, scope of practice issues, diversity and equity issues related to treatment access and adherence and documentation, including nomenclature, abbreviations, and prescription writing.

c. The department may waive certain requirements of paragraph b of this subdivision for applicants who have obtained relevant training and experience including psychologists who are dually licensed as physicians, nurse practitioners, or other health professionals with comparable prescriptive authority in this state.

d. A conditional prescribing certification shall be valid for a period of two years, at the end of which the holder may re-apply pursuant to the requirements of paragraph a of this subdivision. A psychologist with a conditional prescription certification may prescribe psychotropic medications but only when maintaining an ongoing collaborative relationship with a qualified clinician who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's

medical condition and significant changes in the patient's medical or psychological condition are discussed, and subject to the following conditions:

(1) the psychologist shall continue to hold a current license to practice psychology in New York and continue to maintain malpractice insurance;

(2) the psychologist shall notify the department of the name of the psychologist's collaborating clinician; and

(3) the collaborating clinician shall notify the clinician's own licensing board of the name of each psychologist utilizing a collaborative agreement with the collaborating clinician.

e. The ongoing collaborative relationship shall be maintained pursuant to guidelines developed by the department and the state board for psychology, which shall optimize patient care.

f. The guidelines shall ensure that the prescribing psychologist or the psychologist with a conditional prescribing certification and the collaborating clinician coordinate, and collaborate on, the care of the patient to provide optimal care. Nothing in this paragraph shall require a prescribing psychologist or psychologist with a conditional prescribing certification to give prior notice to or obtain prior approval from a collaborating clinician to prescribe psychotropic medication to a patient with whom the prescribing psychologist has established a psychologist-patient relationship; provided that the psychologist provides written notice of the prescription to the collaborating clinician within twenty-four hours of its issuance to such patient.

g. A collaborating clinician shall not be liable for the acts of a psychologist with whom there is a collaborative relationship unless the injury or loss arises from those acts under the direction and control of the collaborating clinician.

3. a. A psychologist licensed under this article may apply for a certificate of prescriptive authority, and the department shall issue such prescriptive authority certification, if the applicant meets the following requirements:

(1) Possesses a conditional prescribing certification and has successfully completed two years of prescribing psychotropic medication under such certification. An applicant for a prescription certificate who specializes in the psychological care of children, elderly persons, or persons with comorbid psychological conditions shall complete at least one year prescribing psychotropic medications to such populations under such conditional prescribing certification;

(2) Holds a current license to practice psychology in this state;

(3) Possesses malpractice insurance that will cover the applicant as a prescribing psychologist; and

(4) Meets all other requirements, as determined by rules adopted by the board, for obtaining a certificate of prescriptive authority.

b. A prescribing psychologist may prescribe psychotropic medication pursuant to the provisions of this title subject to the following conditions:

(1) Continues to hold a current license to practice psychology in this state, maintains a prescriptive authority certification issued by the department, and maintains malpractice insurance;

(2) Annually satisfies the continuing education requirements for prescribing psychologists, as determined by the department, which shall be no fewer than twenty-five hours each year; and

(3) Complies with any other rules adopted by the department.

c. The department may grant prescriptive authority certification to an applicant who has a current and unrestricted license to practice psychology and a current and unrestricted certification of prescriptive authority from another state, or training from the United States Department of Defense demonstration project or other similar program developed and operated by any branch of the armed forces that imposes substantially equivalent educational and training requirements as those contained in this chapter and required by the department.

4. a. The department shall prescribe by rule a method for the renewal of prescriptive authority at the time of or in conjunction with the renewal of licenses issued pursuant to this article.

b. Each applicant for renewal of prescriptive authority shall present satisfactory evidence to the department demonstrating the completion of twenty-five hours of continuing education instruction relevant to prescriptive authority during the licensure renewal period.

5. a. Prescribing psychologists shall be authorized to prescribe, administer, discontinue or distribute without charge, drugs or controlled substances recognized in or customarily used in the diagnosis, treatment and management of individuals with psychiatric, mental, cognitive, nervous, emotional or behavioral disorders and relevant to the practice of psychology, or other procedures directly related thereto within the scope of practice of psychology in accordance with rules and regulations adopted by the department.

b. No prescribing psychologist shall issue a prescription unless the psychologist holds a valid certificate of prescriptive authority.

c. Each prescription issued by a prescribing psychologist shall:

(1) Comply with all applicable state and federal laws and regulations relating to such prescription; and

(2) Be identified as written by the prescribing psychologist in such manner as determined by the department in accordance with title four of article thirty-three of the public health law.

d. A record of all prescriptions shall be maintained in the patient's record.

e. A psychologist shall not delegate the authority to prescribe drugs to any other person.

6. a. Prescribing psychologists shall file in a timely manner their Drug Enforcement Agency registration and number with the department.

b. The department shall maintain current records of every psychologist authorized to prescribe, including his or her Drug Enforcement Agency registration and number.

7. The department shall promulgate rules and regulations for denying, modifying, suspending or revoking the prescriptive authority or license of a psychologist authorized to prescribe. The department shall also have the power to require remediation of any deficiencies in the training or practice pattern of the medical psychologist or prescribing psychologist when, in the judgment of the department, such deficiencies could reasonably be expected to jeopardize the health, safety or welfare of the public.

§ 2. Section 7602 of the education law, as added by chapter 987 of the laws of 1971, is amended to read as follows:

§ 7602. State board for psychology. A state board for psychology shall be appointed by the board of regents on recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing and professional conduct in accordance with section sixty-five hundred eight of this title. The board shall be composed of not less than eleven psychologists licensed

in this state**, at least two of whom shall be prescribing psychologists**. An executive secretary to the board shall be appointed by the board of regents upon the recommendation of the commissioner and shall be a psychologist, licensed in this state.

§ 3. Subdivision 1 of section 7606 of the education law, as added by chapter 676 of the laws of 2002, is amended to read as follows:

1. prescribing or administering drugs as defined in this chapter as a treatment, therapy, or professional service in the practice of his or her profession**, except as provided under section seventy-six hundred one-b of this article**; or

§ 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.